

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

PHILLIP ELMORE,

Petitioner,

-vs-

MARC C. HOUK, Warden,

Respondent.

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Case No. 1:07-cv-776

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District Judge Sandra S. Beckwith  
Magistrate Judge Michael R. Merz

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**ORDER STRIKING MOTION FOR DISCOVERY**

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This capital habeas corpus case is before the Court *sua sponte* upon the filing of Petitioner's First Motion for Discovery (Doc. No. 48).

In the Amended Scheduling Order in this case, September 1, 2010, was set as the deadline for filing motions for discovery (Doc. No. 33). On Respondent's Unopposed Motion (Doc. No. 37), the Court extended that time to November 1, 2010. However, the instant Motion was filed two weeks later without leave of court and without the consultation with opposing counsel required by S.D. Ohio Civ. R. 7.3.

Accordingly, Petitioner's First Motion for Discovery is STRICKEN.  
November 16, 2010.

s/ **Michael R. Merz**  
United States Magistrate Judge